

AMENDED IN ASSEMBLY MAY 6, 1999

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

ASSEMBLY BILL

No. 453

Introduced by Assembly Member Havice
(Coauthor: Assembly Member Washington)

February 16, 1999

An act to amend Sections 1785.10 and 1785.13 of the Civil Code, relating to consumer credit reports.

LEGISLATIVE COUNSEL'S DIGEST

AB 453, as amended, Havice. Consumer credit reports: contents.

Existing law, contained in the Consumer Credit Reporting Agencies Act, requires every consumer credit reporting agency to disclose to the consumer all information in the agency's files regarding that consumer, as specified. The act also prohibits a consumer credit reporting agency from including in any consumer credit report, among other things, information relating to bankruptcies that occurred more than 10 years earlier or accounts placed for collection more than 7 years earlier.

This bill would ~~require those agencies to include the consumer's credit score, as specified, in any disclosure to the consumer of the consumer's file. The bill also would~~ prohibit those agencies from including in any consumer credit report a statement that the consumer's debt payments are being, or have been, managed by a credit management counseling service. *It would also prohibit these agencies from providing*

to a credit scoring organization, and a credit scoring organization from using, the number of inquiries received by the agency for transactions initiated by the consumer within a specified period.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1785.10 of the Civil Code is
2 amended to read:

3 1785.10. (a) Every consumer credit reporting
4 agency shall, upon request and proper identification of
5 any consumer, allow the consumer to visually inspect all
6 files maintained regarding that consumer at the time of
7 the request.

8 (b) Every consumer reporting agency, upon contact
9 by a consumer by phone, mail, or in person regarding
10 information that may be contained in the agency files
11 regarding that consumer, shall promptly advise the
12 consumer of his or her rights under Sections 1785.19 and
13 1785.19.5, and of the obligation of the agency to provide
14 disclosure of the files in person, by mail, or by telephone
15 pursuant to Section 1785.15, including the obligation of
16 the agency to provide a decoded written version of the
17 file or a written copy of the file with an explanation of any
18 code used, if the consumer so requests that copy. The
19 disclosure shall be provided in the manner selected by the
20 consumer, chosen from among any reasonable means
21 available to the consumer credit reporting agency.

22 The agency shall determine the applicability of
23 subdivision (b) of Section 1785.17 and, where applicable,
24 the agency shall inform the consumer of the rights under
25 that section.

26 (c) All information on a consumer in the files of a
27 consumer credit reporting agency at the time of a request
28 for inspection under subdivision (a); shall be available for
29 inspection, including the names and addresses of the
30 sources of information.

(d) The consumer credit reporting agency shall also disclose the recipients of any consumer credit report on the consumer that the consumer credit reporting agency has furnished:

(1) For employment purposes within the two-year period preceding the request.

(2) For any other purpose within the six-month period preceding the request.

Disclosure of recipients of consumer credit reports for purposes of this subdivision shall include the name of the recipient or, if applicable, the fictitious business name under which the recipient does business, disclosed in full. If requested by the consumer, the identification shall also include the address of the recipient.

(e) The consumer credit reporting agency shall also disclose a record of all inquiries received by the agency in the six-month period preceding the request that identified the consumer in connection with a credit transaction that is not initiated by the consumer. This record of inquiries shall include the name of each recipient making an inquiry.

~~(f) The consumer credit reporting agency shall also disclose the consumer's credit score as established by the consumer credit reporting agency for purposes of quantifying the consumer's relative creditworthiness and rating the consumer as a risk factor for credit transactions.~~

SEC. 2. Section 1785.13 of the Civil Code is amended to read:

1785.13. (a) No consumer credit reporting agency shall make any consumer credit report containing any of the following items of information:

(1) Bankruptcies that, from the date of adjudication, antedate the report by more than 10 years.

(2) Suits and judgments that, from the date of entry or renewal, antedate the report by more than seven years or until the governing statute of limitations has expired, whichever is the longer period.

(3) Unlawful detainer actions, unless the lessor was the prevailing party. For purposes of this paragraph, the lessor shall be deemed to be the prevailing party only if

1 (A) final judgment was awarded to the lessor (i) upon
2 entry of the tenant's default, (ii) upon the granting of the
3 lessor's motion for summary judgment, or (iii) following
4 trial, or (B) the action was resolved by a written
5 settlement agreement between the parties that states
6 that the unlawful detainer action may be reported. In any
7 other instance in which the action is resolved by
8 settlement agreement, the lessor shall not be deemed to
9 be the prevailing party for purposes of this paragraph.

10 (4) Paid tax liens that, from the date of payment,
11 antedate the report by more than seven years.

12 (5) Accounts placed for collection or charged to profit
13 and loss that antedate the report by more than seven
14 years.

15 (6) Records of arrest, indictment, information,
16 misdemeanor complaint, or conviction of a crime that,
17 from the date of disposition, release, or parole, antedate
18 the report by more than seven years. These items of
19 information shall no longer be reported if at any time it
20 is learned that, in the case of a conviction, a full pardon
21 has been granted, ~~or~~ *or*; in the case of an arrest,
22 indictment, information, or misdemeanor complaint, a
23 conviction did not result.

24 (7) Any other adverse information that antedates the
25 report by more than seven years.

26 (8) Any statement that the consumer's debt payments
27 are being, or have at any time been, managed by a credit
28 management counseling service.

29 (b) The seven-year period specified in paragraphs (5)
30 and (7) of subdivision (a) shall commence to run, with
31 respect to any account that is placed for collection
32 (internally or by referral to a third party, whichever is
33 earlier), charged to profit and loss, or subjected to any
34 similar action, upon the expiration of the 180-day period
35 beginning on the date of the commencement of the
36 delinquency that immediately preceded the collection
37 activity, charge to profit and loss, or similar action. Where
38 more than one of these actions is taken with respect to a
39 particular account, the seven-year period specified in
40 paragraphs (5) and (7) *of subdivision (a)* shall commence

1 concurrently for all these actions on the date of the first
2 of these actions.

3 (c) Any consumer credit reporting agency that
4 furnishes a consumer credit report containing
5 information regarding any case involving a consumer
6 arising under the bankruptcy provisions of Title 11 of the
7 United States Code shall include an identification of the
8 chapter of Title 11 of the United States Code under which
9 the case arose if that can be ascertained from what was
10 provided to the consumer credit reporting agency by the
11 source of the information.

12 (d) A consumer credit report shall not include any
13 adverse information concerning a consumer antedating
14 the report by more than 10 years or that otherwise is
15 prohibited from being included in a consumer credit
16 report.

17 (e) If a consumer credit reporting agency is notified
18 by a furnisher of credit information that an open-end
19 credit account of the consumer has been closed by the
20 consumer, any consumer credit report thereafter issued
21 by the consumer credit reporting agency with respect to
22 that consumer, and that includes information respecting
23 that account, shall indicate the fact that the consumer has
24 closed the account. For purposes of this subdivision,
25 “open-end credit account” does not include any demand
26 deposit account, such as a checking account, money
27 market account, or share draft account.

28 (f) Consumer credit reporting agencies shall not
29 include medical information in their files on consumers
30 or furnish medical information for employment or credit
31 purposes in a consumer credit report without the consent
32 of the consumer.

33 (g) A consumer credit reporting agency shall include
34 in any consumer credit report information, if any, on the
35 failure of the consumer to pay overdue child or spousal
36 support, where the information either was provided to
37 the consumer credit reporting agency pursuant to
38 Section 4752 or has been provided to the consumer credit
39 reporting agency and verified by another federal, state,
40 or local governmental agency.

1 (h) A consumer credit reporting agency shall not
2 provide to a credit scoring organization, and a credit
3 scoring organization may not use in scoring the credit
4 rating of a consumer, the number of inquiries received by
5 the consumer credit agency in the 12-month period
6 preceding the report that identified the consumer in
7 connection with a credit transaction that was initiated by
8 the consumer.

